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In re Application of	:	
Marel et al.	:	DECISION ON PETITION
Application Number: 10/693679	:	TO WITHDRAW HOLDING OF
Filing Date: 10/23/2003	:	ABANDONMENT
Attorney Docket Number: B-5275	:	
621391-0	:	

This is a decision on the "PETITION FOR WITHDRAWAL OF ABANDONMENT," filed on July 16, 2008, which is treated as a petition to withdraw the holding of abandonment in the above-identified application.

The application was held abandoned for failure to respond in a timely manner to the non-final Office action mailed on April 9, 2007. Notice of Abandonment was mailed on June 11, 2008.

Petitioners assert that a timely response was in fact filed in the form of an amendment in response to the non-final Office action and a one (1) month extension of time. In support of the petition, petitioners submitted a copy of a date-stamped post card receipt acknowledging receipt of, *inter alia*, a Response to Official Action and a Petition for Extension of Time in the United States Patent and Trademark Office (Office) on August 3, 2007. Additionally, petitioners have submitted a copy of the Response (amendment), and petition for extension of time.

Petitioners' response to the final Office action is not of record in the file and cannot be located. However, M.P.E.P. § 503 states, "[a] post card receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO." Accordingly, it is concluded that the reply to the non-final Office action and one (1) month extension of time were received in the Office but were not matched with the application file.

Additionally, the amendment and one (1) extension of time filed with the present petition bears a proper certificate of mailing, dated July 31, 2007, in compliance with the requirements of 37 C.F.R. § 1.8(a)(1) as set forth above.

Consequently, there is no abandonment in fact.

The Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

The petition is **GRANTED**.

The address in the petition is different than the correspondence address. A courtesy copy of this decision is being mailed to the address in the petition. All future correspondence will be mailed solely to the address of record. A change of correspondence address should be filed if the correspondence address needs to be updated.

The application file will be referred to the Technology Center's technical support staff for entry of the response. Thereafter, the application file will be referred to the examiner for action in due course.

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3231.



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